IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24380 of 2004

Between:

Y.Linga Reddy, S/o.Bakka Reddy, Conductor, E.No.252257
Nalgonda Bus Depot, APSRTC, Nalgonda District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Nalgonda, Nalgonda District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondent in imposing a punishment of deferment of petitioner's annual increment for a period of six months which shall have effect on petitioners future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and also against the judgments of this Hon'ble court as well as apex court by setting aside the final order No.02/104(36)/89-NLG dt.23-4-1990 issued by the respondent herein and consequently direct the respondent to add the increment which was deferred.

Counsel for the Petitioner:MR.P.VENKATESHWER RAO

Counsel for the Respondent : MR.V.T.M.PRASAD, STANDING COUNSEL FOR APSRTC

The Court at the stage of admission, made the following :

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ORDER:

The petitioner is working as a conductor in APSRTC. He was issued a charge memo dated 31.1.1990 for having committed cash and ticket irregularities. The petitioner had submitted his explanation. The same was taken into account and the respondent has passed orders dated 23.4.1990 imposing stoppage of annual increment with cumulative effect for a period of six months. The petitioner challenges the same in this writ petition on the ground that though, what was imposed is a major penalty, the respondents did not hold domestic enquiry.

Heard learned counsel for the petitioner and learned standing counsel for the respondent.

The learned counsel for the petitioner places reliance upon a judgment of Supreme Court in KULVANT SINGH GILL V.STATE OF

PUNJAB as well as a decision of this court in S.K.MASTHAN v.MANAGING DIRECTOR.

The learned standing counsel Sri V.T.M.Prasad on the other hand submits that the writ petition cannot be maintained since it is filed 13 years after the impugned order and the same deserves to be dismissed on the ground of latches.

It is true that the writ petition is filed 13 years after the respondent has passed orders imposing penalty. In the normal course of things, the writ petition deserves to be dismissed on the ground of latches. However, in the matter of rights of employees, the Supreme Court in GURUMAL SING v.PRINCIPAL, GOVERNMENT COLLEGE OF EDUCATION has held that the belated challenge of the orders detrimental to the interests of the employees should not result in total denial of relief, and at the most they can be denied back wages. Therefore, the writ petition cannot be dismissed on the ground of latches alone.

Through the impugned order the respondent has imposed the penalty of stoppage of annual increment with cumulative effect for six months. No departmental enquiry was conducted. From a perusal of the Classiffication Control & Appeal Regulations, it is evident that the penalty of stoppage of increment for a period of six months with cumulative effect can be treated as a minor penalty. Therefore, the same could have been imposed only after conducting enquiry. The Hon'ble Supreme Court in Kulvant Singh Gill's case (1 supra) held that major penalty cannot be imposed without conducting the departmental enquiry. In that view of the matter the impugned order cannot be sustained.

As a result of setting aside of the impugned order the matter has to be remitted to the respondent for fresh consideration. However, having regard to the fact that the order was passed more than a decade ago, this Court feels it just and proper to treat the punishment against the petitioner, as the one for stoppage of annual increment for a period of six months without cumulative effect. Since, the petitioner

has challenged the impugned order after 13 years, it is held that he shall not be entitled for any back wages or arrears of pay, as a consequence of the modification of the punishment. The petitioner shall however be entitled for refixation of pay with prospective effect.

The writ petition is accordingly disposed of with the above direction. No costs.

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28.12.2004

bsv

To

1. The Depot Manager, APSRTC, Nalgonda, Nalgonda District.

2. 2 CD copies